

# **MAINE STATE LEGISLATURE**

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November 15, 1962

Allen L. Robbins, Warden

Maine State Prison, Thomaston, Maine

Courtland D. Perry, Asst. Atty. Gen'l.

Mental Health and Corrections

Sentence for Crimes Committed While on Parole.

Recently you asked this office whether a court sentencing a parolee for an offense committed while on parole, may order that such sentence run concurrently with the original sentence.

In confirmation of my verbal answer to this question may I say that it is the opinion of this office, that section 16 of chapter 27-A of the Revised Statutes, as added by section 1, chapter 387 of the Public Laws of 1957 and amended by section 11, chapter 312 of Public Laws of 1959 is controlling in this instance.

"Any parolee who commits an offense while on parole who is sentenced to the State Prison shall serve the second sentence beginning on the date of termination of the first sentence, unless the first sentence is otherwise terminated by the board."

It is our further opinion, that in the event, a court shall err by ordering the sentence for an offense committed while on parole to run concurrently with the first sentence, personnel of the State Prison are bound by the above Statute to commence the second sentence upon completion of the first sentence, unless the first sentence is otherwise terminated by the Probation and Parole Board.

The Executive Branch of State Government has no recourse through the courts to have the erroneous sentence corrected. Such an error would be in favor of the respondent, and he could petition for the writ of Habeas Corpus if he wished to rely on the concurrent sentence imposed by the court. (Lewis vs. Robbins, 150 Me. 121.)

Prison personnel would also be bound to follow the provisions of section 42 of chapter 27 of the Revised Statutes as amended, if the court were to order that a sentence for escape or assault run concurrently with the former sentence.

(Opinion July 24, 1962 re: Sentences after Conviction for Escape or Assault on An Officer.)

CDP/f  
cc: Attorney General's Dept.

Courtland D. Perry  
Assistant Attorney General